

State of South Dakota

NINETY-FOURTH SESSION LEGISLATIVE ASSEMBLY, 2019

441B0092

HOUSE BILL NO. _____

Introduced by: _____

1 FOR AN ACT ENTITLED, An Act to revise the child count used for the purposes of special
2 education funding and to create a special education sparsity benefit.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-37-35.1 be amended to read:

5 13-37-35.1. Terms used in chapter 13-37 mean:

6 (1) "Level one disability," a mild disability;

7 (2) "Level two disability," cognitive disability or emotional disorder;

8 (3) "Level three disability," hearing impairment, deafness, visual impairment, deaf-
9 blindness, orthopedic impairment, or traumatic brain injury;

10 (4) "Level four disability," autism;

11 (5) "Level five disability," multiple disabilities;

12 (5A) "Level six disability," prolonged assistance;

13 (6) "Index factor," is the annual percentage change in the consumer price index for urban
14 wage earners and clerical workers as computed by the Bureau of Labor Statistics of
15 the United States Department of Labor for the year before the year immediately
16 preceding the year of adjustment or three percent, whichever is less;



1 (7) "Local effort," shall be calculated for taxes payable in 2019 and thereafter using a
2 special education levy of one dollar and thirty-six and seven tenth cents per one
3 thousand dollars of valuation;

4 (8) "Allocation for a student with a level one disability," for the school fiscal year
5 beginning July 1, 2018, is \$5,527.09. For each school year thereafter, the allocation
6 for a student with a level one disability shall be the previous fiscal year's allocation
7 for such child increased by the index factor;

8 (9) "Allocation for a student with a level two disability," for the school fiscal year
9 beginning July 1, 2018, is \$12,756.08. For each school year thereafter, the allocation
10 for a student with a level two disability shall be the previous fiscal year's allocation
11 for such child increased by the index factor;

12 (10) "Allocation for a student with a level three disability," for the school fiscal year
13 beginning July 1, 2018, is \$16,258.12. For each school year thereafter, the allocation
14 for a student with a level three disability shall be the previous fiscal year's allocation
15 for such child increased by the index factor;

16 (11) "Allocation for a student with a level four disability," for the school fiscal year
17 beginning July 1, 2018, is \$15,766.80. For each school year thereafter, the allocation
18 for a student with a level four disability shall be the previous fiscal year's allocation
19 for such child increased by the index factor;

20 (12) "Allocation for a student with a level five disability," for the school fiscal year
21 beginning July 1, 2018, is \$28,161.22. For each school year thereafter, the allocation
22 for a student with a level five disability shall be the previous fiscal year's allocation
23 for such child increased by the index factor;

24 (12A) "Allocation for a student with a level six disability," for the school fiscal year

beginning July 1, 2018, is \$8,111.33. For each school year thereafter, the allocation for a student with a level six disability shall be the previous fiscal year's allocation for such child increased by the index factor;

(13) "Child count," is the number of students in need of special education or special education and related services according to criteria set forth in rules promulgated pursuant to §§ 13-37-1.1 and 13-37-46 submitted to the Department of Education in accordance with rules promulgated pursuant to § 13-37-1.1;

(14) "Fall enrollment," the number of kindergarten through twelfth grade students enrolled in all schools operated by the school district on the last Friday of September of the ~~previous~~ current school year minus the number of students for whom the district receives tuition, except any nonresident student who is in the care and custody of a state agency and is attending a public school and any student for whom tuition is being paid pursuant to § 13-28-42.1, plus the number of students for whom the district pays tuition;

(15) "Nonpublic school," a sectarian organization or entity which is accredited by the secretary of education for the purpose of instructing children of compulsory school age. This definition excludes any school that receives a majority of its revenues from public funds;

(16) "Nonpublic fall enrollment," the number of children under age eighteen, who are approved for alternative instruction pursuant to § 13-27-2 on the last Friday of September of the previous school year plus:

(a) For nonpublic schools located within the boundaries of a public school district with a fall enrollment of six hundred or more on the last Friday of September of the ~~previous~~ current school year, the number of kindergarten through

twelfth grade students enrolled on the last Friday of September of the ~~previous~~
current regular school year in all nonpublic schools located within the
boundaries of the public school district;

(b) For nonpublic schools located within the boundaries of a public school district
with a fall enrollment of less than six hundred on the last Friday of September
of the ~~previous~~ current school year, the number of resident kindergarten
through twelfth grade students enrolled on the last Friday of September of the
~~previous~~ current school year in all nonpublic schools located within the State
of South Dakota;

(17) "Special education fall enrollment," fall enrollment plus nonpublic fall enrollment;

(18) "Local need," an amount to be determined as follows:

(a) Multiply the special education fall enrollment by 0.1 and multiply the result
by the allocation for a student with a level one disability;

(b) Multiply the number of students having a level two disability as reported on
the child count for the ~~previous~~ current school fiscal year by the allocation for
a student with a level two disability;

(c) Multiply the number of students having a level three disability as reported on
the child count for the ~~previous~~ current school fiscal year by the allocation for
a student with a level three disability;

(d) Multiply the number of students having a level four disability as reported on
the child count for the ~~previous~~ current school fiscal year by the allocation for
a student with a level four disability;

(e) Multiply the number of students having a level five disability as reported on
the child count for the ~~previous~~ current school fiscal year by the allocation for

1 a student with a level five disability;

2 (f) Multiply the number of students having a level six disability as reported on the
3 child count for the ~~previous~~ current school fiscal year by the allocation for a
4 student with a level six disability;

5 (g) When calculating local need at the statewide level, include the amount set
6 aside for extraordinary costs defined in § 13-37-40;

7 (h) When calculating local need at the statewide level, include the amount set
8 aside for the South Dakota School for the Blind and Visually Impaired;

9 (i) When calculating local need at the statewide level, include the amount set
10 aside for the special education sparsity benefit defined in this Act;

11 (j) Sum the results of (a) to ~~(h)~~ (i), inclusive;

12 (19) "Effort factor," the school district's special education tax levy in dollars per thousand
13 divided by \$1.367. The maximum effort factor is 1.0.

14 Section 2. That chapter 13-37 be amended by adding a NEW SECTION to read:

15 For the purposes of this chapter, a special education sparse school district is a school district
16 that meets each of the following criteria:

17 (1) Has a fall enrollment per square mile of .50 or less;

18 (2) Has a fall child count of one hundred fifty or less;

19 (3) Levies ad valorem taxes at the maximum rate allowed pursuant to § 13-37-16 or
20 more; and

21 (4) Has an ending special education fund balance that does not exceed ten percent of its
22 special education expenditures for the prior fiscal year.

23 Section 3. That chapter 13-37 be amended by adding a NEW SECTION to read:

24 For the purposes of this chapter, special education sparsity child count is calculated as

1 follows:

- 2 (1) Divide the child count as defined in § 13-37-35.1 by the area of the school district in
3 square miles;
- 4 (2) Multiply the quotient obtained in subdivision (1) times negative 0.125;
- 5 (3) Add 0.0625 to the product obtained in subdivision (2); and
- 6 (4) Multiply the sum obtained in subdivision (3) times the child count.

7 Section 4. That chapter 13-37 be amended by adding a NEW SECTION to read:

8 At the same time that state aid to special education is distributed to school districts pursuant
9 to §§ 13-37-35.1 to 13-37-36.3, inclusive, the secretary of education shall distribute funds to
10 special education sparse school districts by multiplying the result of the calculation in section
11 3 of this Act by the average of the allocations outlined in subdivision 13-37-35.1(8) to (12A),
12 inclusive. However, no special education sparse school district may receive a special education
13 sparsity benefit that exceeds fifty thousand dollars in any fiscal year.